

**Remarks:**

In view of the foregoing amendments and these remarks, it is submitted that the objections raised in the Office have been overcome.

Applicant has amended claim 1 to substantially include the limitations of claim 4 and to introduce further limitations for clarity. Claims 4 and 17 have been cancelled and claim 18 has been withdrawn. New claim 20 has been introduced. Accordingly, claims 1-3, 5-16 and 20 are pending herein.

**Election/Restriction**

In response to the restriction requirement, Applicant elects Group I for prosecution in the present application and has withdrawn claim 18 without prejudice.

**Claim Rejections – 35 USC 112**

In response to the Examiner's objection to claim 17 under 35 U.S.C. 112 as not enabled by the description, Applicant has cancelled claim 17.

**Claim Rejections – 35 USC 103**

In response to the Examiner's objection to claims 1, 2, 4, and 8-17 as obvious in view of US 6,670,887 to Dungan, and US 6,405,135 to Adriany, Applicant respectfully submits that in view of the foregoing amendments to claim 1 and these remarks, claim 1 (and each of its dependent claims) are patentably distinguished over the prior art of record.

As noted, claim 1 has been amended to substantially include the limitation of old claim 4 with further clarifying limitations. Specifically, claim 1 has been amended to require "voice communication means operatively connected to the central communication interface and processor enabling a combination of wireless voice and processed data communication over the wireless communication network". Claim 1 has been further amended to clarify that the system may communicate with a wireless communication network.

It is respectfully submitted that this element and its functionality is neither taught nor suggested by the prior art and, further that the advantages realized by the system defined by claim 1 as discussed below is both novel and unobvious in view of the Dungan and Adriany references and all other references of record.

### The Law of Obviousness

In applying 35 U.S.C. § 103(a) the Applicant submits that whether an invention is obvious is a question of law based on several factual inquiries. *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17 (1966). The primary considerations when determining obviousness are the scope and content of the prior art, the differences between the prior art and the claims at issue, and the level of ordinary skill in the art. Several rules apply when making this determination. First, the claimed invention must be considered as a whole. *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5 (Fed. Cir. 1986). The references must also be considered as a whole and must suggest the desirability and hence the obviousness of making a combination. The references must be viewed without the benefit of hindsight in light of the claimed invention. The references must also be in the field of the applicant's invention or reasonably pertinent to the problem the inventor sought to solve (*In re Oetiker*, 977 F.2d 1443, 1447(Fed. Cir. 1992)), such that the person of ordinary skill necessarily varies between inventions applied to different fields. One of ordinary skill in the art must have had a reasonable expectation of success when combining the references. *In re Vaeck*, 947 F.2d 488, 493 (Fed. Cir. 1991). And, the prior art must teach or suggest all of the claim limitations. *In re Royka*, 490 F.2d 981 (C.C.P.A. 1974). Although the references need not expressly teach that their disclosures should be combined, the showing of combinability must be "clear and particular." at 1348-49 (citing *In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999)). For these reasons including those set out below, Applicant respectfully submits that any combination of Dungan, Adriany, Meyers, and Cossins is an improper combination of references lacking adequate cross-connection between those arts and completely without any motivation to combine their teachings.

Initially, Applicant respectfully submits that Dungan's "person of skill" in airborne gas detection is not the same person as that having the applicable content and standard of knowledge for Adriany's subsurface pollution detection technology, "such that the subject matter as a whole" of the present invention would not have been obvious in light of the teachings of both Dungan and Adriany - to a person having ordinary skill in the art of remote gas well-site monitoring, being the art to which the Applicant submits that the present invention pertains.

Notwithstanding that there is an element of wireless communication involved in each of Dungan and Adriany, a person of ordinary skill in airborne gas detection and alarm systems is unlikely to also be skilled in the use of subsurface chemical pollution detection systems.

Accordingly, and in response to the Examiner's objection to claims 3, and 5-7 as obvious in view of Dungan, Adriany, and further in view of US 6,405,135 to Myers - Applicant similarly respectfully submits that Myers' person of skill in online monitoring of liquid storage and dispensing sites is not the same person as would have the applicable content and standard of knowledge for either of Dungan's or Adriany's technologies. Consequently, Applicant respectfully submits that the subject matter as a whole of the present invention would not have been obvious in light of the teachings of all of Dungan, Adriany, and Myers - to a person having ordinary skill in the art of remote gas well-site monitoring. Moreover, by the same reasoning a person having knowledge in any of the cited technologies is very unlikely to also be a person of skill in cellular phone, satellite, video, or signal switching technologies.

Furthermore, for the purposes of assessing obviousness there must be some teaching, suggestion, or motivation to combine multiple prior art references cited against an invention (*Winner Int'l Royalty Corp. v. Wang*, 202 F.3d 1340, 1348 (Fed. Cir. 2000)), Applicant respectfully submits that there is no teaching, suggestion, or motivation to combine Dungan, Adriany, and Meyers- found in the references themselves, or in the knowledge of one of ordinary skill in each of the arts to which those references relate, or from the nature of any of the problems being solved by the teachings of those references.

The many differences between the core technologies and the applications contemplated for those technologies, as taught in each of Dungan, Adriany, and Myers are (rather than being obvious) further emphasized by their comparison (individually and in combination) to the teachings of the present invention. Consider, for example, the installations taught by each of the below items of prior art, none of which includes any citation or makes any other reference to any of the other items of prior art or to the applications described in any of those other items:

US6670887 Dungan - a chemical processing "plant" in or near a populated area

US6405135 Adriany - a storage facility for industrial chemicals (soil pollution)

US6259956 Meyers - unattended liquid storage and filling station (a "cardlock")

All of the foregoing items of prior art are typically permanent installations located in or near populated areas that have access to an existing communication infrastructure (such as an existing telephone or cellular phone network) making communication easier and less expensive

than at remote production well-sites to which the claims of the present invention are restricted. As such, operators and users of the technologies described in these patents are not limited when using their respective systems by being able to access standard communications networks such as the telephone or cellular phone network.

As such, the unknown or absent communication infrastructure available at remote well-sites is a significant barrier to communication between a user or operator of the Applicant's system. As such, and as defined in amended claim 1, the subject application solves a problem not considered by prior art, namely the ability to communicate between a remote site (where there is unlikely to be an established telephone communication network) and a central site without the need to incorporate a separate communication system. In the subject case, upon establishment of an operative wireless communication link between the remote site and a wireless communication network, the operator who may be the initial installer or a technician visiting the remote site at a later date, has the ability to communicate using voice in addition to data communication. As a result, once the communication link has been established, the system provides the improved flexibility of enabling both voice and data communication over the same network connection. Thus, an operator or user does not need to carry a separate communication system such as a cellular or satellite phone to enable communication with the central site.

The prior art does not teach or suggest "voice communication means operatively connected to the central communication interface and processor enabling a combination of wireless voice and processed data communication over the wireless communication network" and, as such, does not solve nor address the problems solved by the subject application.

In the result, Applicant respectfully submits that integrated voice and data communication represents a non-obvious solution to establish cost-effective communication that is unique to the remote well-site installation of the present invention, as the absence of access to a communication infrastructure (e.g. a cellular tower network or wireline telephone network) is not an identified issue within the prior art.

While Adriany discloses that "For example, the remote monitoring station 18 may transmit a facsimile message to the responsible party 24, or telephone call, or overnight mail", this disclosure specifically identifies these forms of communication as alternatives to wireless network communication (see column 6, lines 56-60) and does not reasonably disclose that the

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system of Adriany can be utilized such that both data and voice are communicated over the a wireless communication network.

As claim 1 is believed to be in a condition for allowance, it is submitted that each of the dependent claims are similarly distinguished over the prior art of record.

In the event that there are any outstanding issues in respect of this application or questions that the Examiner may have with respect to this response, the Examiner is invited to telephone the undersigned patent agent at 403-282-9889.

In view of the foregoing, it is believed this case is now in a condition for allowance.

Respectfully submitted,

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